

IN THE COURT OF DISTRICT MOBILE MAGISTRATE (Traffic)
SOPORE

In the matter of: Suo Moto cognizance of the use of red beacons/strobe lights etc. and multi toned sirens in violation of rule 108 and 119 of Motor Vehicles Rules 1989 and directions passed by the Hon'ble Supreme Court in the case of **Abhay Singh Versus State of Uttar Pradesh AIR 2014 SC 427.**

Coram: Javid Ahmad Parray 00232

ORDER

1. It has been brought to the notice of this court by the Traffic Officials having the remit of regulating traffic on roads and booking the violators, breaching traffic rules in particular rule 108 and 119 of Motor Vehicles Rules 1989 (for short rules of 1989), that some bureaucrats (especially some District/Executive Magistrates and IAS and KAS Officers), Civil Servants, Politicians, Judicial Officers, workers of various political parties, etc. are using beacons and sirens on their vehicles, which is in the teeth of rule 108 and 119 of Motor Vehicles Rules 1989 and the directions/guidelines issued passed by the Hon'ble Apex Court in the case of **Abhay Singh** (Supra). It has been further brought to the notice of this court that no action is being taken against these violators by the police, and other authorities empowered under Motor Vehicles Act 1988 and the rules made there under, for the fear of suffering reprisal at the hands of these violators in that the violators are usually the top brass bureaucrats, Politicians/Judicial Officers etc. It has been further brought to the notice of this court that the use of red beacons and multi toned sirens has literally segued into menace, which apart from causing unbearable noise pollution to the residents and to the motorists, is also promoting a VVIP culture which is antithetical to the principle of equality enshrined in the Constitution of India.
2. Having regard to what has been brought to the notice of this court, it is deemed proper to pass some orders so as to ensure that violators of rule 108 and 119 of Motor Vehicles rules 1989, irrespective of their status or rank are dealt with iron hand.
3. Rule 108 and 119 of Motor Vehicles Rules 1989 prohibit use of red beacons etc. and multi toned sirens on the vehicles except in the case of high dignitaries. These two rules are extracted below for reference;
“108. Use of red, white or blue light.—(1) No motor vehicle shall show a red light to the front or light other than red to rear: Provided that the provisions of this rule shall not apply to—
(i) the internal lighting of the vehicle; or
(ii) the amber light, if displayed by any direction indicator or top light or as top light used on vehicle for operating within the premises like airports, ports without going outside the said premises on to public roads;

- (iii) a vehicle carrying high dignitaries as specified by the Central Government or the State Government, as the case may be, from time to time;
 - (iv) the blinker type of red light with purple glass fitted to an ambulance van used for carrying patients; or
 - (v) to a vehicle having a lamp fitted with an
2: electrical bulb, if the power of the bulb does not exceed seven watts and the lamp is fitted with frosted glass or any other material which has the effect of diffusing the light;
 - (vi) white light illuminating the rear number plate;
 - (vii) white light used while reversing;
 - (viii) plough light provided in agricultural tractors for illuminating the implement's working area on the ground in agricultural field operations.
- (2) Use of blue light with flasher shall be determined and notified by the State Governments at their discretion;
- (3) Use of blue light with or without flasher shall be permitted as top light on vehicles escorting high dignitaries entitled to the use of red light;
- (4) Use of multi-coloured red, blue and white light shall be permitted only on vehicles specifically designated for emergency duties and shall be specifically specified by State Governments;
- (5) The State Government shall inform the Central Government regarding publication of notifications issued by the concerned State Government under sub-rule (2) and under clause (e) of the Notification No. S.O. 52(E), dated 11th January, 2002, published in the Gazette of India, Ministry of Road Transport and Highways, regarding use of red light on top of vehicle being used by dignitaries;
- (6) In case vehicle is not carrying dignitaries, red or blue light, as the case may be, light shall not be used and be covered by black cover.

Rule 119. Horns.—(1) On and after expiry of one year from the date of commencement of the Central Motor Vehicles (Amendment) Rules, 1999, every motor vehicle, agricultural tractor, power tiller and construction equipment vehicle manufactured shall be fitted with an electric horn or other devices conforming to the requirements of IS: 1884— 1992, specified by the Bureau of Indian Standards for use by the driver of the vehicle and capable of giving audible and sufficient warning of the approach or position of the vehicle: Provided that on and from 1st January, 2003, the horn installation requirements for motor vehicle shall be as per AIS-014 specifications, as may be amended from time to time, till such time as corresponding Bureau of Indian Standards specifications are notified.

(2) No motor vehicle including agricultural tractor shall be fitted with any multi-toned horn giving a succession of different notes or with any other sound-producing device giving an unduly harsh, shrill, loud or alarming noise.

(3) Nothing contained in sub-rule (2) shall

2: prevent the use on vehicles used as ambulance or for firefighting or salvage purposes or on vehicles used by police officers or operators of construction equipment vehicles or officers of the Motor Vehicles Department in the course of their duties or on construction equipment vehicles of such sound signals as may be approved by the registering authority in whose jurisdiction such vehicles are kept.”

4. Thus according to rule 108, use of red light with flasher, red light without flasher and blue, white and multi colored lights on the top of vehicles except in the case of high dignitaries is prohibited. Similarly rule 119 also imposes a restriction on the use of multi toned horns/sirens/hooters on the vehicles with the exception specified in sub-rule (3). The Hon'ble Apex Court in the case of **Abhay Singh (supra)**, while terming contemptuous disregard to the prohibition contained in rule 108 and 119 by people in power, holders of public offices, civil servants and even ordinary people as reflection of "Raj Mentality" and antithetical to the concept of a Republic and with a view to ensure that the menace of beacons on vehicles and use of sirens is stopped except in the case of heads of the constitutional functionaries observed and passed the following directions extracted hereunder;

Since the learned Solicitor General and the Additional Solicitor General are in agreement with the learned Amicus that the prohibition contained in Rule 119(2) on the use of multi-toned horns giving a succession of different notes or with any other sound producing device giving an unduly harsh, shrill, loud or alarming noise is absolute with certain exceptions specified in sub-rule (3), the only thing required to be done by the Central and the State Governments is to implement the prohibition in its letter and spirit. Their failure to do so for last almost 24 years is inexplicable. The contemptuous disregard to the prohibition by people in power, holders of public offices, civil servants and even ordinary citizens is again reflective of 'Raj Mentality' and is antithesis of the concept of a Republic. We feel that the only possible remedy to curb the menace of use of multi-toned horns is to impose exemplary fine on the violators and ensure its rigorous enforcement by the concerned authorities and agencies.

On the issue of use of vehicles with red lights, we were inclined to agree with Shri Harish Salve, learned Amicus that use of signs and symbols of authority such as red lights, etc., is contrary to the constitutional ethos and the basic feature of republicanism, but, on a deeper consideration, we have felt persuaded to accept the submissions of the learned Solicitor General and the Additional Solicitor General that the term "high dignitaries" used in proviso (iii) to Rule 108(1) of the 1989 Rules would take within its fold various constitutional functionaries, i.e., holders of the constitutional offices. When the framers of the Constitution have considered it appropriate to treat those occupying constitutional positions as a special category, there is no reason for the Court to exclude them from the ambit of the term "high dignitaries". The use of red lights on the vehicles carrying the holders of constitutional posts will in no manner compromise with the dignity of other citizens and individuals or embolden them to think that they are superior to other people, more so, because this distinction would be available to them only while on duty and would be co-terminus with their tenure. However, the Governments of most of the States and Administration of Union Territories have framed rules and issued notifications allowing use of red lights on the vehicles carrying large number of persons other than "high dignitaries". They have also used the power of issuing notifications to enlarge the list of the persons entitled to use red lights with or without flashers whether on duty or otherwise. Most of these notifications are far beyond the scope of clause 'c' of Notifications dated 11.1.2002 and 28.7.2005 issued by the Central Government. It also

deserves to be mentioned that there has been abysmal failure on the part of the concerned authorities and agencies of various State Governments and the Administration of the Union Territories to check misuse of the vehicles with red lights on their top. So much so that a large number of persons are using red lights on their vehicles for committing crimes in different parts of the country and they do so with impunity because the police officials are mostly scared of checking vehicles with red lights, what to say of imposing fine or penalty.

In the result, we hold as under:

1. The term “high dignitaries” used in proviso (iii) to Rule 108(1) of the 1989 Rules takes within its fold the holders of various posts, positions and offices specified in the Constitution.

2. The motor vehicles carrying “high dignitaries” specified by the Central Government and their counterparts specified by the State Government may be fitted with red lights but the red lights with or without flasher can be used only while the specified high dignitary is on duty and not otherwise.

3. The State Governments and Administration of Union Territories cannot enlarge the scope of the term “high dignitaries” beyond what is prescribed in clauses ‘c’ and ‘d’ of Notifications dated 11.1.2002 and 28.7.2005 issued by the Central Government. Therefore, they shall amend the relevant rules and notifications to bring them in tune with the 1989 Rules and notifications dated 11.1.2002 and 28.7.2002 issued by the Central Government. This exercise must be completed within a period of three months.

4. The men in uniform; operational agencies which require un-hindered access to the roads for performance of their duty; those engaged in emergency duties such as ambulance services, fire services, emergency maintenance etc, and police vehicles used as escorts or pilots or for law and order duties shall not be entitled to have red lights but lights of other colours, e.g., blue, white, multicoloured etc.

5. No motor vehicles except those specified in Rule 119(3) of the 1989 Rules or similar provisions contained in the rules framed by the State Governments or the Administration of Union Territories shall be fitted with multi-toned horns giving a succession of different notes or with any other sound producing device giving an unduly harsh, shrill, loud or alarming noise.

6. The police officers and other authorities entrusted with the task of enforcing the provisions of the 1988 Act and the Rules framed thereunder must discharge their duties without any fear or favour and should impose appropriate penalty on those who violate the prohibition contained in Rule 108(1) and Rule 119 and similar rules framed by the State Governments and the Administration of Union Territories. The owners/users of the vehicles fitted with multi-toned horns other than those allowed to use such horns under Rule 119(3) of the 1989 Rules or corresponding rules framed by the State Governments and the Administration of the Union Territories shall, within a period of one month from today, remove the multi-toned horns. The officers authorized to enforce the provisions of the 1988 Act and the rules framed thereunder by the Central Government, the State Governments and the Administration of Union Territories shall also ensure that multi-

toned horns are removed from all the vehicles except those specified in rule 119(3) of the 1989 Rules or corresponding rules framed by the State Governments and the Administration of Union Territories.

7. The Chief Secretaries of all the States and the Administrators of Union Territories shall cause a notice published in the newspapers having wide circulation in their respective States and the Union Territories incorporating the directions contained in this order.

5. It is worth to note here that pursuant to the directions passed by Hon'ble Apex Court in the case of **Abhay Singh (Supra)** and in exercise of the power vested in it under proviso (iii) of rule 108 (1) of 1989 rules, the erstwhile State Government of Jammu and Kashmir issued SRO No. 55 dated 6th of March 2014, thereby authorizing use of red light with flasher, red light without flasher and blue, white and multi colored lights on top of the vehicles carrying the dignitaries/officers as per Annexure appended thereto, which read as under;

Annexure to SRO No. 55 dated 6th of March, 2014

“(a) Red light with flasher on top front of the vehicle, while on Duty anywhere in the State:-

1. Governor;
2. Chief Minister;
3. Former Governors;
4. Deputy Chief Minister;
5. Chief Justice;
6. Chairman Legislative Council;
7. Speaker, Legislative Assembly;
8. Cabinet Ministers;
9. Former Chief Ministers;
10. Leader of the Opposition in Legislative Council;
11. Leader of the Opposition in Legislative Assembly;
12. Judges of High Court;

b) Red light without flasher on top front of the vehicle, while (on duty anywhere in the State:-

1. Deputy Chairman, Legislative Council;
 2. Deputy Speaker, Legislative Assembly;
 3. Minister of State;
- (i) Any vehicle carrying the dignitary formally designated as equivalent in rank, status and privileges to those dignitaries referred to in Items (a) and (b) above shall be entitled to use the red light as per the corresponding privileges. The vehicles carrying the dignitaries assigned rank in their personal capacities by the Government in the General Administration. Department of the J&K State shall be entitled to use red light as per the corresponding privileges assigned to those dignitaries referred to in items (a) and (b) above.

- (ii) In case the vehicle fitted with red light on top front is not carrying the dignitaries then such red light shall not be used and be covered by a black cover.

(c) **Blue light with flasher/Bar on top of the vehicle while on duty in their respective jurisdiction:-**

Emergency Services:-

- i. Ambulances and Vaccine Carrier Vehicles;
- ii. Fire & Emergency Services Vehicles;
- iii. Disaster Management vehicles;

(d) **White light without flasher on top of the vehicle while onDuty:-**

Civic bodies carrier Vehicles including fumigation vans;

(e) **Multi coloured light/Bar on top of the vehicle while onDuty:-**

1. Vehicles on Law & Order duty;
 2. Checking squads of Motor Vehicle Department;
 3. Checking squads of Traffic Police;
 4. P.C.R. Vehicles and VIP escorts vehicles;
6. Thus according to Supreme Court guidelines passed in the case of **Abhay Singh (Supra)** and SRO 55 of 6th of March 2014 issued by the then Government of Jammu and Kashmir pursuant to the directions passed by the Hon'ble Apex Court, no Government Officer (KAS and IAS Officers included), Civil Servants, District/Executive Magistrates, Judicial Officers etc. except those mentioned in Annexure to SRO 55 is authorized to use red light with flasher, red light without flasher and blue, white and multi colored lights on the top of vehicles and as observed hereinbefore that many Civil Servants, Government Officers, Judicial Officers and in some cases some ordinary citizens are disregarding the prohibition and violating rule 108 and 119 of rules of 1989 with flagrancy, blatancy and impunity and no action is being taken against them by the law enforcing agencies having the remit of booking the violators of these rules and in order to crack whip on the violators of the rules quoted above, this court deems it proper to pass following directions;
- (i) The Police Officers including the Traffic Police and other authorities including the officers of Motor Vehicles Department, shall ensure that violators of rule 108 and 119, irrespective of their, status , rank or position shall be booked and appropriate penalties shall be imposed on such violators. In appropriate cases the vehicles of such violator shall be stopped and the red beacon etc. and the multi-toned sirens installed on the vehicles of such violators shall be removed on spot and in case any resistance is shown by the violators to the said removal, the Police Officers and the Officers of Motor Vehicle Department shall seize the vehicle and report seizure to this court with promptitude.

- (ii) For dealing with this menace of use of red beacons and multitone sirens, especially by the Government Officers, Civil Servants, District and Executive Magistrates and some Judicial Officers, and in order to prevent violation of rule 108 and 119 of rules of 1989, Inspector General (IG) Traffic Kashmir shall constitute Special Teams for District Baramulla, Kupwara and Bandipora, falling within the jurisdiction of this court and these teams shall be headed by no less than an officer of the rank of DYSP and the teams so constituted for these three Districts shall clampdown on the violators and while taking action the officers of such teams shall not get influenced, intimidated or swayed by the rank or status of the violator. Deputy Inspector General Police (DIG) North Kashmir shall also constitute such teams to crack whip on the violators of rule 108 and 119.
- (iii) Deputy Commissioners of District Baramulla, Kupwara and Bandipora shall issue special orders within their respective jurisdictions directing all the officers subordinate to them not to use red beacons etc. and multitone sirens on their vehicles and in case any officer's vehicle has any such equipment installed, the Deputy Commissioners shall order removal thereof with immediate effect.
- (iv) These directions shall be strictly complied with by IG Traffic Kashmir, DIG North Kashmir and Deputy Commissioners of Districts Baramulla, Kupwara and Bandipora and non-compliance of these directions shall make the officers liable for contempt of this court. Actions taken report by the above officers in compliance of these directions shall be filed in the court by the next date fixed hearing.
- (v) Copy of this order be conveyed to IG Traffic Kashmir, DIG North Kashmir and the three Deputy Commissioners mentioned hereinabove for compliance. Besides, copy of this order be also conveyed to Assistant Regional Transport Officers of Districts Baramulla, Bandipora and Kupwara.

List on 15.08.2024

Announced
18.07.2024

Javid
ahmad Pary
(Javid Ahmad Pary)
DMM Sopore

Digitally signed
by Javid
ahmad Pary